

### **REMARKS/ARGUMENTS**

Prior to this amendment, claims 1-8, 10-17, 19-26 and 28-40 were pending. In this amendment, no claims are added, amended, or canceled. No new matter is added. Thus, after entry of this amendment, claims 1-8, 10-17, 19-26 and 28-40 are pending.

### **Claim Rejections 35 USC § 103(a), Sunder, Stolfo**

Claims 1, 10, 19, 32, 33, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2005/0021781 to Sunder et al. ("*Sunder*") in view of U.S. Patent No. 7,069,249 to Stolfo et al. ("*Stolfo*"). This rejection is traversed.

### **Claims 1, 10, and 19**

*Obviousness has not been established, since it would not be rational to combine the references in the manner proposed by the Examiner.*

Obviousness has not been established, since the reason to modify *Sunder* to include a central transaction server that initiates a payment request, does not have any rational underpinning. "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396. MPEP 2141 (III). With regard to claim 1, the Office Action alleges that a person of ordinary skill in the art would be motivated to combine the system in *Sunder* with a "central transaction server (proxy computer) initiates a payment request." as described in *Stolfo*. (Office Action, Pg.4). The Office Action alleges the motivation to do this would be that it provides an additional layer of security. (Id.).

A person of ordinary skill in the art would not have wanted to combine the system in *Sunder* with the proxy computer of *Stolfo* initiating a payment process, to provide an additional layer of security, because it does not provide an additional layer of security. First, a central transaction server initiating a payment request does nothing to further identify and authenticate a user as described in *Sunder*, so no additional security is provided. Second, by initiating a

payment process, the user information must then be sent to additional systems to process the payment. This results in the user information to be sent to even more systems, where the information may be compromised, thus reducing security. A person of ordinary skill in the art would not have wanted to combine *Sunder* and *Stolfo* to provide an additional layer of security as alleged by the Examiner, because, in the best case, the combination does nothing to provide additional security. Furthermore, the combination may actually reduce security, and thus teach away from the Office Action's alleged motivation to combine the references.

***Obviousness has not been established, since improper hindsight was used to combine the references.***

Obviousness has not been established, since improper hindsight was used to combine the references. As explained by MPEP 2142:

To reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" when the invention was unknown and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

Here, neither *Sunder* nor *Stolfo* teach or suggest that increased security is provided when one uses a central transaction server (proxy computer) to initiate a payment request. Because the prior art does not teach or suggest the reason to combine *Sunder* and *Stolfo*, obviousness has not been established for yet another reason. The Office Action provides no evidence that one of ordinary skill in the art would have done what the Examiner proposes *at the time of the invention*. Since no evidence has been supplied with indicates that increased security would be

provided by initiating a payment request, obviousness has not been established for yet another reason.

Claims 10 and 19 are rejected for the same reasons as claim 1, and as such, the argument presented above applies to those claims.

### **Claims 32 and 33**

In addition to the reasons presented above, each and every limitation of claim 32 and 33 is not taught by *Sunder* and *Stolfo*. Claim 32 recites:

The system of claim 1 wherein the payment request process includes a charge request, wherein the charge request is generated by a merchant and is subsequently sent to **an acquirer**.

(*emphasis added*). The Office Action has failed to show where and acquirer has been taught in either *Sunder* or *Stolfo*. Claim 32 recites a similar limitation.

### **Claim 38**

Claim 38 recites:

The system of claim 1, wherein the central transaction server further **hosts at least one web page**.

(*emphasis added*). Claim 38 is allowable as it depends from an allowable independent claim. In addition, the Office Action alleges that hosting at least one web page is described in *Stolfo*, and a person of ordinary skill in the art would have been motivated to combine a web page as described in *Stolfo* with the system as described in *Sunder* in order to provide an additional layer of security. Hosting a web page does not add an additional layer of security. Accordingly, the alleged reason to modify *Sunder* with the teachings in *Stolfo* is not rational and obviousness has not been established with respect to claim 38 for yet another reason.

### **Claim Rejections 35 USC § 103(a), *Sunder*, *Stolfo*, *Kranzley***

Claims 2, 11, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2005/0021781 to *Sunder et al.* ("*Sunder*") in view of U.S. Patent No. 7,069,249 to *Stolfo et al.* ("*Stolfo*") in further view of U.S. Publication No. 2002/0128973 to *Kranzley et al.* ("*Kranzley*"). This rejection is traversed. The addition of the *Kranzley* reference is insufficient

to overcome the improper combination of *Sunder* and *Stolfo* as discussed above. The claims are allowable at least by virtue of their dependence on their respective independent claims.

**Claim Rejections 35 USC § 103(a), Sunder, Stolfo, Gerdes**

Claims 3, 12, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2005/0021781 to Sunder et al. ("*Sunder*") in view of U.S. Patent No. 7,069,249 to Stolfo et al. ("*Stolfo*") in further view of U.S. Publication No. 2003/0046541 to Gerdes et al. ("*Gerdes*"). This rejection is traversed. The addition of the *Gerdes* reference is insufficient to overcome the improper combination of *Sunder* and *Stolfo* as discussed above. The claims are allowable at least by virtue of their dependence on their respective independent claims.

**Claim Rejections 35 USC § 103(a), Sunder, Stolfo, Golan**

Claims 4-6, 13-15, 22-24 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2005/0021781 to Sunder et al. ("*Sunder*") in view of U.S. Patent No. 7,069,249 to Stolfo et al. ("*Stolfo*") in further view of U.S. Publication No. 2004/0254848 to Golan et al. ("*Golan*"). This rejection is traversed. The addition of the *Golan* reference is insufficient to overcome the improper combination of *Sunder* and *Stolfo* as discussed above. The claims are allowable at least by virtue of their dependence on their respective independent claims.

**Claims 29 and 31**

In addition to being allowable by virtue of their dependence on their respective independent claims, claims 29 and 31 are allowable because it would not have been obvious to combine the references. Claim 29 recites:

The method of claim 28, further comprising:  
**modifying the verifying enrollment response** received from the access control server; and  
forwarding the modified verifying enrollment response to the directory server.

(*emphasis added*). Claim 31 recites a similar limitation. The Office Action alleges that modifying data is well known in the art of data processing, and that a person of ordinary skill in

the art would have been motivated to do this because it provides an additional level of security. Modifying a verifying enrollment response would not provide an additional layer of security, and may decrease security, as the original message sent from the access control server would be altered. Accordingly, the alleged reason to modify as proposed by the Examiner is not rational and obviousness has not been established with respect to claim 38 for yet another reason.

In addition, to the extent that the Examiner is taking official notice, Applicants traverse every instance in which official notice is taken, and Applicants request that a reference be found to support each limitation of each claim being examined.

**Claim Rejections 35 USC § 103(a), Sunder, Stolfo, Otto**

Claims 7, 16, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2005/0021781 to Sunder et al. ("*Sunder*") in view of U.S. Patent No. 7,069,249 to Stolfo et al. ("*Stolfo*") in further view of U.S. Publication No. 2001/0029496 to Otto et al. ("*Otto*"). This rejection is traversed. Claims 7, 16, and 25 are allowable at least by virtue of their dependence from independent claims 1, 10 and 19.

Furthermore, Claim 7 recites:

The electronic commerce card authentication system of claim 1, wherein **the authentication request includes a pseudonym corresponding to an electronic commerce card account number** and previously created by the central transaction server.

(*emphasis added*). Claims 16 and 25 recite similar limitations.

The Office Action alleges it would have been obvious to combine the system of *Sunder* with the pseudonym corresponding to an electronic commerce account in *Otto*, and that a person of ordinary skill in the art would be motivated to do so because it allows a user to anonymously purchase goods and services over a network. The system in *Sunder* is directed to identifying a user, and allowing a user to remain anonymous would teach away from identifying a user. As such, allowing a user to anonymously purchase goods and services over a network would not be a sufficient reason for a person of skill in the art to combine these two references.

**Claim Rejections 35 USC § 103(a), Sunder, Stolfo, Allen**

Claims 8, 17, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2005/0021781 to Sunder et al. ("*Sunder*") in view of U.S. Patent No. 7,069,249 to Stolfo et al. ("*Stolfo*") in further view of U.S. Publication No. 2003/0168510 to Allen et al. ("*Allen*"). This rejection is traversed. Claims 8, 17, and 26 are allowable at least by virtue of their dependence from independent claims 1, 10 and 19.

Furthermore, Claim 8 recites:

The electronic commerce card authentication system of claim 1, **wherein the authentication request includes a pseudonym previously created by a merchant system** that corresponds to an electronic commerce card account number.

(*emphasis added*). Claims 16 and 25 recite similar limitations.

The Office Action alleges it would have been obvious to combine the system of *Sunder* with the pseudonym previously created by a merchant system that corresponds to an electronic commerce account in *Allen*, and that a person of ordinary skill in the art would be motivated to do so because it protects messages and information being transmitted during a transaction. The system in *Sunder* is directed to identifying a user, and protecting messages and information being transmitted during a transaction would not help in identifying a user. As such, protecting messages and information being transmitted during a transaction would not be reason for a person of skill in the art to combine these two references.

**Claim Rejections 35 USC § 103(a), Sunder, Golan, Allen**

Claims 34-37, 39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2005/0021781 to Sunder et al. ("*Sunder*") in view of U.S. Publication No. 2004/0254848 to Golan et al. ("*Golan*") in further view of U.S. Publication No. 2003/0168510 to Allen et al. ("*Allen*"). This rejection is traversed. Claim 34 recites:

A method performed by a central transaction server, the method comprising:  
receiving a verifying enrollment request;  
sending the verifying enrollment request to an access control server;  
receiving a verifying enrollment response from the access control server;  
**creating an altered verifying enrollment response comprising a pseudonym;**  
sending the **altered verifying enrollment response** to a merchant system, wherein the merchant system subsequently sends an authentication request including the **pseudonym** to a holder system;  
receiving the authentication request with the **pseudonym** from the holder system;

sending the authentication request with the **pseudonym** to the access control server;  
receiving an authentication response; and  
sending the authentication response to the holder system.

(*emphasis added*). The Office Action alleges that it would have been obvious to a person of ordinary skill in the art to combine the references, and they would have been motivated to do so to provide an additional level of security. The system as described in *Sunder* identifies a user. It would not have been obvious to modify the system as described in *Sunder* include a pseudonym as described in *Allen* to improve security, because as discussed with respect to claim 7, use of a pseudonym would decrease security. Furthermore, it would not have been obvious to create an altered verifying enrollment response to improve security, as was discussed with regard to claim 29.

Claims 35-37 are allowable at least by virtue of their dependence from their respective independent claims.

#### **Claims 39 and 40**

Claims 39 and 40 contain limitations similar to claim 38. The Office Action alleges that hosting at least one web page is disclosed in *Stolfo*, and a person of ordinary skill in the art would have been motivated to combine a web page as described in *Stolfo* with the system as described in *Sunder* in order to provide an additional layer of security. Hosting a web page does not add an additional layer of security.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

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